

MAY 26 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM Docket No. <u>93-53</u>
)	
KR PARTNERS)	File No. BPH-911001MB
)	
KES COMMUNICATIONS, INC.)	File No. BPH-911003MH
)	
LORI LYNNE FORBES)	File No. BPH-911004MH
)	
For Construction Permit for a)	
New FM Station on Channel 256C)	
in Waimea, Hawaii)	

To: Honorable Joseph P. Gonzalez
Administrative Law Judge

JOINT REQUEST FOR SUSPENSION OF PROCEDURAL DATES

KES Communications, Inc. ("KES"), KR Partners ("KR"), and Lori Lynne Forbes ("Forbes"), otherwise referred to as Joint Movants, by their attorneys, hereby respectfully move the Presiding Judge to suspend all procedural dates in this proceeding, including those set forth in the *Prehearing Conference Order, FCC 93M-121 (released March 25, 1993)*. In support hereof, the following is shown:

1. The Joint Movants have agreed to a preliminary framework for the global settlement of this proceeding whereby KES and KR would merge and become the Waimea permittee, and Forbes would dismiss her application, with prejudice, in exchange for the reimbursement of her legitimate expenses. Although the exact formalities of the KES-KR merger have not

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yet been agreed upon, nor has an exact settlement offer been extended to Forbes, the Joint Movants are cautiously optimistic that the final terms of the settlement will be agreed upon as a result of upcoming negotiations, as described below.

2. Currently depositions are scheduled to take place on June 7, 1993 and June 8, 1993 in or near Waimea, Hawaii, and June 11, 1993 in Azuza, California. Joint Movants have held extensive settlement discussions during the past week. However, since the principals of KR reside in Hawaii, while KES's sole principal resides in California, it has been impossible to date for counsel and their clients to meet face-to-face to discuss settlement. And, KES and KR do not want to finalize any settlement agreement until the principals of each party meet face-to-face. Accordingly, Joint Movants have agreed to utilize the time previously set aside for depositions as the opportunity to finalize settlement rather than continue litigation. Under Joint Movants proposal, depositions on the standard comparative issue will be cancelled, with such time being devoted to settlement discussions.

3. At this time, there are several matters outstanding that require responsive pleadings, such as:

(a) KR's Reply to Forbes' Opposition to KR's Motion to Enlarge the issues;

(b) KES's Opposition to KR's Motion to Enlarge the Issues; and,

(c) KES's Opposition to Forbes' Motion to Enlarge
the Issues

Likewise, there is a likelihood that additional petitions to enlarge the issues could be filed against one or more of the Joint Movants in the very near future. Moreover, KR has advised KES and Forbes that it shall file a Motion for Leave to Amend and Amendment on May 27, 1993, which could possibly necessitate the filing of responsive pleadings by KES and/or Forbes. However, in the spirit of settlement, Joint Movants request a suspension of all procedural and response dates so that all efforts by the parties and their counsel are directed towards an early resolution of this proceeding rather than protracted litigation.

4. Joint Movants will report back to the Presiding Judge on June 14, 1993 regarding the status of settlement. In the event terms of a settlement have been finalized, Joint Movants will notify the Presiding Judge when all appropriate settlement agreements and pleadings will be filed with the Commission and, if necessary, submit a revised Joint Motion for Suspension of Procedural Dates. In the event a final settlement is not achieved, Joint Movants have agreed to the following:

(a) On June 14, 1993, Joint Movants will resume prosecution of this proceeding, and request his Honor to issue rulings as to the new filing deadlines for any outstanding opposition and reply pleadings.

(b) The taking of depositions on matters relative to the standard comparative issue will have been waived.

(c) The taking of Mike Marikian's deposition on KR's financial issue will be taken before July 2, 1993. The discovery on any other issue that might subsequently be added shall occur pursuant to the order of the Presiding Judge.

(d) Submission of the Preliminary Joint Engineering Statement would be extended until July 7, 1993. (Bureau counsel has consented to this time extension.)

(e) All other procedural dates would be preserved, such as the previously ordered deadlines for exhibit exchange, witness notification and opposition, final joint engineering submission, and hearing date.


5. The public interest would be served by the proposed suspension of procedural dates in that it is designed to ultimately conserve the resources of the Commission and the parties, and avoid burdening the record with unnecessary papers. Such action would also be consistent with, and further Congress' intent in the *Paperwork Reduction Act of 1980*.

WHEREFORE, the Joint Movants respectfully urge that all procedural dates in this proceeding be SUSPENDED through June 14, 1993, and that the Joint Movants be ORDERED to file a

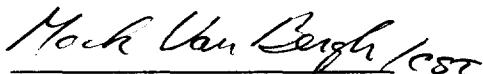
status report on settlement on or before June 14, 1993.

Respectfully submitted,


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May 26, 1993

CERTIFICATE OF SERVICE

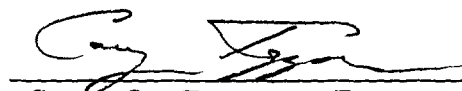
I, Cary S. Tepper, Esquire, hereby certify that on this 26th day of May, 1993, I have served a copy of the foregoing "Joint Motion for Suspension of Procedural Dates" first-class, postage-prepaid, on the following:

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*denotes Delivery By Hand